

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LARRY PHILPOT, :

Plaintiff, :

- against - :

17 Civ. 05058 (AT)(DCF)

UMG RECORDINGS, INC., :

Defendant. :

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DECLARATION OF WILLIAM DUNNEGAN IN SUPPORT OF THE MOTION OF
DUNNEGAN & SCILEPPI LLC TO WITHDRAW AS COUNSEL FOR PLAINTIFF
AND TO FIX A CHARGING LIEN ON THE PROCEEDS OF THE ACTION

WILLIAM DUNNEGAN hereby declares pursuant to 28 U.S.C. § 1746 that the following
is true and correct.

1. I am a member of the bar of this Court and the firm of Dunnegan & Scileppi LLC
("D&S"), attorneys for plaintiff Larry Philpot ("Philpot") in this action. I am making this
declaration in support of the motion to withdraw as counsel and to fix a charging lien on the
proceeds of the action. I am making this declaration based upon personal knowledge, except
otherwise stated.

Request to Withdraw

2. On July 5, 2017 D&S filed this action on behalf of Philpot alleging violations of
the Copyright Act, 17 U.S.C. § 101, *et seq.*, by defendant.

3. Since filing the action, an irreconcilable conflict has arisen between D&S and
Philpot, and the attorney-client relationship has deteriorated. Accordingly, there is a
fundamental breakdown of the trust required to maintain a working attorney-client relationship.

If the Court requires additional factual support of this conflict, counsel respectfully requests an order stating that counsel can submit it for *in camera* review, to protect the attorney-client privilege.

Assertion of a Charging Lien

4. D&S has rendered substantial services in this action.

5. This litigation involved issues, including but not limited to, copyright ownership, copyright registration, publication, infringement, metadata removal, willfulness, and statutory damages, as well as affirmative defenses of license and fair use.

6. D&S's services included (i) pre-filing investigation, analysis, and preparation, (ii) drafting and serving a cease and desist letter, (iii) drafting and filing the complaint, (iv) drafting the initial pretrial conference submissions, (v) attending the initial pretrial conference, (vi) successfully opposing a motion to dismiss, (vii) gathering, reviewing, and producing over 1,000 pages of Philpot's documents, (viii) drafting and serving discovery requests, (ix) responding to multiple sets of defendant's discovery requests, and (x) reviewing and editing the stipulation for a protective order.

7. D&S billed time at its usual hourly rates for 2017 and 2018, which are probably at the lower end of the range for attorneys concentrating in intellectual property litigation in New York, New York:

- William Dunnegan at \$450 - \$475 per hour,
- Laura Scileppi at \$325 - \$375 per hour,
- Associate Richard Weiss at \$225 - \$325 per hour,
- First year associate Andrew Chung at \$180 per hour, and
- Paralegal Jennifer Rafuse (Siewert) at \$155 - \$160 per hour.

8. The lodestar amount, based upon our calculation, is over \$100,000. If the Court requests a more detailed breakdown of the lodestar analysis at this time, we will provide it. If the Court requests our timesheets, we request an order allowing us to submit them for *in camera* review, to avoid disclosing attorney-client privileged information.

9. D&S, and its attorneys, have substantial litigation and intellectual property experience.

William Dunnegan

10. I graduated from Columbia Law School in 1980, was named a James Kent Scholar, the highest academic distinction that the Law School awards, and was admitted to the Bar of the State of New York in 1981, at age 22. After graduation from law school, I practiced at Cravath, Swaine & Moore (1980 to 1982), Reboul, MacMurray, Hewitt, Maynard & Kristol (1982-1989), and Shea & Gould (1989 to 1994). I started my own practice in 1994 and formed a predecessor firm of D&S in 1999. Virtually all of my practice since graduating law school has involved federal litigation, primarily intellectual property litigation. I have represented the following public companies, or their subsidiaries, as lead counsel in copyright infringement litigation: Warner Bros., Mattel, John Wiley & Sons, Pearson Education, and McGraw-Hill. I have acted as lead counsel in at least 22 trials that have resulted in a decision or a verdict. I have argued 20 appeals before the United States Court of Appeals, in the Second, Third, Seventh, Eighth, Eleventh and Federal Circuits. On February 23, 2011, I argued for Petitioner in the Supreme Court of the United States in Global-Tech v. SEB, S.A., which resulted in a decision reported at 131 S. Ct. 2060.

Laura Scileppi

11. Laura Scileppi graduated from Rutgers Law School in 2007, in the top 10 percent of her class. She has tried one copyright case as lead counsel, and argued twice before the United States Court of Appeals, in the Second and Eleventh Circuits. She has participated in many trials and appeals in the last ten years, including the trial and Second Circuit appeal in John Wiley & Sons, Inc. v. Kirtsaeng, which later resulted in two decisions from the Supreme Court of the United States, as well as the argument in Global-Tech v. SEB, S.A. before the United States Supreme Court.

Associates

12. Richard Weiss graduated from New York University School of Law in 2012, and joined the firm in 2013.

13. Andrew Chung graduated from Columbia Law School in 2016, and was admitted to the New York Bar in 2017.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct.

Executed this 12th day of February 2018.

s/William Dunnegan
William Dunnegan